

## REMARKS

This application has been reviewed in light of the Office Action dated March 8, 2006. Claims 1-40 are presented for examination. Claims 1, 11, 21 and 31, the independent claims, have been amended to define still more clearly what Applicants regard as their invention. It should be noted that the changes made are to clarify the claim language, and do not represent a change in what Applicants are claiming. Favorable reconsideration is respectfully requested.

In the outstanding Office Action, Claims 1, 11, 21 and 31 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants respectfully submit that the rejection in question is not proper.

As explained in the MPEP:

“The second paragraph of 35 U.S.C. 112 is directed to requirements for the claims:

‘The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.’

There are two separate requirements set forth in this paragraph:

(A) the claims must set forth the subject matter that applicants regard as their invention; and

(B) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be protected by the patent grant.

The first requirement is a subjective one because it is dependent on what the applicants for a patent regard as their invention. *The second requirement is an objective one because it is not dependent on the views of applicant or any particular individual, but is evaluated in the context of whether the claim is definite - i.e., whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art.*

Although an essential purpose of the examination process is to determine whether or not the claims define an invention that is both novel and nonobvious over the prior art, another essential purpose of patent examination is to determine whether or not the claims are precise, clear, correct, and unambiguous. [emphases added]” MPEP § 2171.

Applicants respectfully submit that the Office Action does not identify any respect in which a person of ordinary skill would allegedly be unable to determine what does or does not fall within the literal scope of these claims, which the MPEP makes clear is the proper test for whether a claim complies with Section 112, second paragraph (MPEP § 2117). Instead, the Office Action merely questions what link exists between the first and the second managing apparatus (there isn’t necessarily any), and how it would be possible for a manager of a first-type device to diagnose a second-type device (it wouldn’t necessarily be possible), and what the reason is for both managers to attempt diagnosis under certain circumstances (when it can’t be determined which type of function is relevant). Applicants submit that Section 112 does not require that the claims describe motivation, theory or principle behind what is claimed, only that they be clear enough that one of ordinary skill can determine unambiguously whether a given apparatus (or method or storage medium, as the case may be) does or does not fall within the literal scope of the claim.

Thus, the Office Action fails to set out a proper rejection under Section 112, second paragraph; nonetheless, to eliminate this as an issue, Applicants have still further clarified the language of the independent claims. Withdrawal of the rejection under Section 112, second paragraph, is respectfully requested.

Claims 1-3, 6, 8, 10-13, 16, 18, 20-23, 26, 28, 30-33, 36, 38 and 40 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,173,422 B1 (Kimura et al.).<sup>1</sup> In addition, Claims 4, 5, 14, 15, 24, 25, 34 and 35 were rejected under 35 U.S.C. § 103(a) as being obvious from *Kimura* in view of U.S. Patent 6,415,392 (Suzuki et al.), Claims 7, 17, 27 and 37, as being obvious from *Kimura* in view of U.S. Patent 6,697,962 (McCrory et al.), and Claims 9, 19, 29 and 39, as being obvious from *Kimura* in view of official notice.

Independent Claim 1 is directed to an information processing apparatus which is connected to a first local managing apparatus, which diagnoses an apparatus having a first-type function, and a second local managing apparatus, which diagnoses an apparatus having a second-type function that is different from the first-type function. The claimed information processing apparatus comprises means for judging when trouble which has occurred in a given apparatus, whether that trouble is related to an apparatus having the first-type function or a trouble related to the apparatus having the second-type (more simply said, the judging means judge whether the apparatus in which the trouble is occurring is one that has the first-type or the second-type function). The claimed apparatus also comprises determination means for determining that the first local managing apparatus shall diagnose the predetermined apparatus, if the trouble which has occurred in the predetermined apparatus is judged to be a trouble related to the apparatus having the first-type function, and determining that the second local managing apparatus shall diagnose the predetermined apparatus, if the trouble which has occurred in the predetermined apparatus

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<sup>1/</sup> While paragraph 12 of the Office Action, discussing this rejection of Claim 10, refers to *Suzuki*, it is understood that this rejection is actually based only on *Kimura*

is judged to be a trouble related to the apparatus having the second-type function, based on the judgment provided by the judging means. The determining means also determine that the first and second local managing apparatuses shall both diagnose the predetermined apparatus if the judging means cannot judge as to whether the trouble which has occurred in the predetermined apparatus is a trouble related to the apparatus having the first-type function or to the apparatus having the second-type function. Also provided in the claimed apparatus are diagnosis control means for causing one of the first local managing apparatus and the second local managing apparatus, or both the first and second local managing apparatuses, to perform diagnosis, based on a determination provided by the determination means.

Among other important features of independent Claim 1, therefore, is that the first local managing apparatus diagnoses the predetermined apparatus if the trouble which has occurred in the predetermined apparatus is judged to be a trouble related to the apparatus having the first-type function, the second local managing apparatus diagnoses the predetermined apparatus if the trouble which has occurred in the predetermined apparatus is judged to be a trouble related to the apparatus having the second-type function, and both the first and second local managing apparatuses diagnose the predetermined apparatus if the judging means cannot judge whether the trouble which has occurred in the predetermined apparatus is a trouble related to the apparatus having the first-type function or second-type function.

Initially, it is understood that the Office Action cites Figs. 12 and 13, and col. 18, lines 1-14, of *Kimura* as corresponding to what is in the preamble of Claim 1. The cited passage of the specification states that:

“As shown in FIG. 13, the error monitoring system according to the invention has a hierarchical structure logically divided into three layers. The device layer at the bottom is made up of various video/audio devices.

The intermediate group layer comprises a plurality of room managers (room managers 84, 85, 86 in this example) each taking charge of error detection of a predetermined block of video/audio devices in the device layer, such as those in each room, in each rack or in each area.

The system layer at the top comprises a supervisor 1 and a network server 87. Display of errors is done by the supervisor 1 for each of the room managers in the system layer. Thus, it is possible to monitor error statuses of all video/audio devices in the device layer.”

It is understood from this citation that the Examiner considers two of the room managers in *Kimura* to correspond to the first local managing apparatus and the second local managing apparatus mentioned in Claim 1, since each room manager manages devices of multiple types, for example, both audio and video devices.

As pointed out above, the judging means of Claim 1 “judge whether any trouble which has occurred in a predetermined apparatus is a trouble related to the apparatus having the first-type function or a trouble related to the apparatus having the second-type”. In addition, the determination means of Claim 1

“determine that the first local managing apparatus shall diagnose the predetermined apparatus if the trouble which has occurred in the predetermined apparatus is judged to be a trouble related to the apparatus having the first-type function, and determine that the second local managing apparatus shall diagnose the predetermined apparatus if the trouble which has occurred in the predetermined apparatus is judged to be a trouble related to the apparatus having the second -type function, based on the judgment provided by said judging means, and said determining means determining that the first and second local managing apparatuses shall both diagnose the predetermined apparatus if said judging means cannot judge as to whether the trouble which has occurred in the predetermined apparatus is a trouble related to the apparatus having the first-type function or to the apparatus having the second-type function”.

Accordingly, to meet these recitations of Claim 1, the *Kimura* system must contain something that, when an error condition occurs in one of the devices, makes a judgment as to whether the affected device is one having a first-type function or a second-type function (the judging means). The *Kimura* system must also have something that, when an error occurs, and the judging means have made the mentioned judgment, determines based on that judgment whether the error is to be diagnosed by the first local managing apparatus or by the second, or by both (the determination means). The Office Action cites Fig. 16 and col. 21, lines 29-55, as disclosing both the recited judging means and the recited determination means. That passage states:

“Among items on the display in FIG. 16, ‘Group’ indicates the room in which a video/audio device containing an error is located. Shown in the error display column 172 is information on the error that occurred in the room shown in the region 161e. In this example, an error exists in each of three video/audio devices. *The information displayed includes, in addition to the day and time of the error and the device ID, error code and error message which are obtained from the status command and written contents of the error explained above.* The reverse-imaged line indicates that a specific error is currently displayed according to instructions from an operator through an entry devices [*sic*] such as mouse 152 or keyboard 153.

*In a detailed message column 173, a detailed message about the selected specific error is displayed.* Detailed messages are previously prepared and stored in the memory/disc device 154 of the supervisor 150. They are displayed in a predetermined linkage with device IDs, error codes and error messages. They may be made in form of a data base in combination with error codes, error messages, both to be displayed in the error display column, and detailed error messages to be displayed in the detailed error message column. In this case, a more detailed message shown in the detailed message column 173 is displayed on the display 155 by appropriate mapping detailed messages relative to error codes and error message. Alternatively, a table linking detailed error messages only with error codes may be made. [emphases added]”

From this passage it is clear that something in the *Kimura* system has performed a diagnosis of the nature of each problem, since an error message is displayed for each problem (see Fig. 16). One thing that is missing from this passage (and, Applicants strongly believe, from the rest of *Kimura*, as well) is any suggestion that a judgment as to the type of device affected by a problem (first-type function device or second-type function device) is made preliminary to diagnosis of the nature of the problem; nor does anything in this passage (or any other portion of *Kimura*) suggest assigning the task of making the diagnosis to a first local managing apparatus, or to a second local managing apparatus, or to both, based on the result of such judgment. On the contrary, in the *Kimura* system, it appears to Applicants that if an error occurs in room 81, for example, then whatever needs to be done in relation to that error is done by the room manager 84 for that room. This is plain from the following statement in *Kimura*:

*“Each room manager in each room belonging to the group layer takes charge of error detection against video/audio devices in the device layer to be managed by the room manager. Explanation on error detection is directed to the master control room 83 in which video/audio devices are connected to the LAN line via the room manager 86 and the terminal server 92. Of course, the same explanation also applies to the editing room 82 in that video/audio devices are connected by the LAN line 90 via the terminal servers 93a, 93b.*

An error detection command is sent from the room manager 86 to the terminal server 92 in the protocol of the LAN line (TCP/IP in this example) to collect results of error detection by video/audio devices. The error detection command is converted into a protocol of the connected video/audio devices (RS-232C in this example), and then supplied to the video/audio devices in the device layer. The error detection command is circularly sent to all video/audio devices under control of the room manager 86. In response to the error detection command, devices containing errors send back error codes indicating natures of the errors.

In case of the studio 81 where video/audio devices and the room manager 84 are connected by RS-232C, the room manager 84 issues a command for introducing error detection results to the connected video/audio devices. That

is, the room manager 84 supplies it directly to the connected video/audio devices by the RS-232C protocol. [emphases added]” *Kimura*, col. 19, lines 25-51.

In contrast to Claim 1, *Kimura* fails to disclose any circumstances under which both a first and a second local managing apparatus perform diagnosis of one apparatus, and in *Kimura*, there is nothing corresponding to the determination means of Claim 1, that make a determination as to whether diagnosis shall be performed by a first managing apparatus, or by a second, or by both. In the *Kimura* system, respective room managers 84-86 diagnose a plurality of audio and video devices that are located in the rooms managed by the respective room managers. Nothing has been found, or pointed out, in *Kimura* that would suggest that there would ever be a case in which a plurality of room managers would be used in the diagnosis of a problem in a given device, and nothing in that patent is seen to suggest means for determining whether diagnosis of a problem in a particular device is to be diagnosed by a first room manager or by a second room manager or by both. On the contrary, in *Kimura*, if trouble were identified in all three rooms, then all three room managers will be notified, and each will deal with the problem in its own individual room, as the Office Action itself notes in “Response to Arguments”. In this case, too, *Kimura* specifies that each room manager deals with devices in the room managed by that room manager, and does not suggest that a plurality of room managers deal with a problem in one device, as will happen using the apparatus of Claim 1 if the judging means cannot judge whether the problem is in a first-type function device or a second-type function device.



Applicants submit, however, that there is a more basic reason why the outstanding rejections cannot be maintained. As discussed above, the Office Action treats the room managers as corresponding to the local managing apparatuses referred to in Claim

1. For that to be correct, the room managers must perform diagnosis of device problems.

The last-quoted passage from *Kimura*, however, suggests that this is not so:

“An error detection command is sent from the room manager 86 to the terminal server 92 in the protocol of the LAN line (TCP/IP in this example) to collect results of error detection by video/audio devices. The error detection command is converted into a protocol of the connected video/audio devices (RS-232C in this example), and then supplied to the video/audio devices in the device layer. The error detection command is circularly sent to all video/audio devices under control of the room manager 86. In response to the error detection command, *devices containing errors send back error codes indicating natures of the errors.* [emphasis added]” Col. 19, lines 35-45.

Thus, the errors occurring in the *Kimura* devices are apparently *not* diagnosed by the room manager, which merely requests and collects error messages from the devices in the room.

For all these reasons, it is believed clear that Claim 1 is allowable over *Kimura*.

The other independent claims are each a method, program or memory-medium claim, respectively, corresponding to apparatus Claim 1, and each is also believed to be clearly allowable over *Kimura* at least for the reasons presented above in regard to Claim 1.

A review of the other art of record, including *Suzuki '392* and *McCrory*, has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as references against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and allowance of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Leonard P Diana/  
Leonard P. Diana  
Attorney for Applicants  
Registration No. 29,296

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

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